

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$2,528.16 for date of service 02/19/01.
- b. The request was received on 02/11/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC-60 and Letter Requesting Dispute Resolution
 - b. UB-92
 - c. TWCC 62 forms
 - d. Medical records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Based on Commission Rule 133.307 (g) (4), the Division notified the insurance carrier Austin Representative of their copy of the request on 07/05/02. The Respondent did not submit a response to the request. The "No Response Submitted" sheet is reflected in Exhibit II of the Commission's case file.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file

III. PARTIES' POSITIONS

1. Requestor: Letter dated 06/25/02:
“The Carrier failed to provide an adequate response to the request for reconsideration and has not forwarded any additional information indicating the Carrier’s denial of additional payment. Based upon the initial denial presented by the Carrier, it is the requestor’s position that the Carrier is required to pay the entire amount in dispute.... (Provider) charges...services at a fair and reasonable rate...these rates are based upon a comparison of charges to the Carriers and the amount of reimbursement received for same or similar services...this determination of fair and reasonable rate is based upon contractual agreements with the majority of Workers’ Compensation Carriers and payments of 85% of ‘usual and customary’ charges made by other Workers’ Compensation and Commercial insurance companies. Based upon the requirements of Texas Administrative Code Section 130.304, a methodology may be developed to establish that a ‘fair and reasonable’ reimbursement amounts to ensure proper payment....(Provider) charges the above-referenced services at a fair and reasonable rate....these rates are based upon a comparison of charges to other Carriers and the amount of reimbursement received for these same or similar services.”
2. Respondent: No response

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1&2), the only date of service eligible for review is 02/19/01.
2. The provider billed a total of \$5,453.72 for the disputed date of service per the TWCC 60.
3. The carrier reimbursed a total of \$2,872.56 per the TWCC 60 and the denial EOB(s) are “*00075 – PLEASE NOTE A 25% REDUCTION IN CHARGES” and “*00118 – INCLUDED IN ANOTHER BILLED PROCEDURE.” The provider accepts the denial of “fair and reasonable” in the letter dated 06/25/02. The letters dated 04/19/00 and 11/12/01 written from the (Provider)’s collection department states, **“The explanation of benefits recently received, has been reviewed, and we find this claim to be paid incorrectly. (Provider) charges are fair and reasonable, and we expect payment at 100% of those billed charges.”** Therefore, this dispute will be reviewed as fair and reasonable.
4. The amount in dispute per the TWCC-60 for the disputed date of service is \$2,528.16.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...” (bolded for emphasis)

The Medical Fee Guidelines General Instructions (VI) discuss that if a MAR value has not been established for a CPT code, reimbursement shall be, "...at the fair and reasonable rate." ASC(s) do not have a MAR value.

Section 413.011(b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (D) states, "if the disputes involves health care for which the commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with § 133.1..."

Because there is no current fee guideline for ASC(s), the Medical Review Division has to determine what would be fair and reasonable reimbursement for the services provided. Regardless of the carrier's application of it's methodology, lack of methodology, or response, the burden is on the provider to show that the amount of reimbursement requested is fair and reasonable. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 9th day of August 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

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